

Sudan, to a person in Sudan, or in circumstances in which the benefit is otherwise received in Sudan, on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling is not provided to facilitate transactions in violation of this part;

(2) Representation of the Government of Sudan or a person in Sudan when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction of the Government of Sudan, or of a person in Sudan;

(4) Representation of the Government of Sudan or a person in Sudan before any federal agency with respect to the imposition, administration, or enforcement of U.S. sanctions against Sudan; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(c) Enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment or other judicial process purporting to transfer or otherwise alter or affect a property interest of the Government of Sudan is prohibited unless specifically licensed in accordance with § 538.202(e).

§ 538.506 30-day delayed effective date for pre-November 4, 1997 trade contracts involving Sudan.

(a) *Pre-existing trade contracts.* Trade transactions required under a contract entered into prior to November 4, 1997 (a “pre-existing trade contract”), otherwise prohibited by this part, including the importation of goods or services of Sudanese origin or the exportation of goods, services, or technology that was authorized under applicable Federal regulations in force immediately prior to November 4, 1997, are authorized without specific licensing by the Office of Foreign Assets Control as follows:

(1) Exports or reexports are authorized until 12:01 a.m. EST, December 4,

1997, and non-financing activity by U.S. persons incidental to the performance of the pre-existing trade contract (such as the provision of transportation or insurance) is authorized through 12:01 a.m. EST, February 2, 1998, if the pre-existing trade contract is for:

(i) The exportation of goods, services, or technology from the United States or a third country that was authorized under applicable Federal regulations in force immediately prior to November 4, 1997; or

(ii) The reexportation of goods or technology that was authorized under applicable Federal regulations in force immediately prior to November 4, 1997.

(2) If the pre-existing trade contract is for the importation of goods or services of Sudanese origin or other trade transactions relating to goods or services of Sudanese origin or owned or controlled by the Government of Sudan, importations under the pre-existing trade contract are authorized until 12:01 a.m. EST, December 4, 1997.

(3) For purposes of this section, goods are considered to be exported upon final loading aboard the exporting conveyance in the country of export. Goods are considered to be imported upon arrival in the jurisdiction of the country of importation.

(b)(1) *Financing for pre-existing trade contracts.* In general, no financing services prohibited by this part may be performed after 12:01 a.m. EST, November 4, 1997. However, letters of credit and other financing agreements with respect to the trade transactions authorized in paragraph (a) of this section may be performed according to their terms, and may be extended or renewed, except that:

(i) Any payment required to be made to the Government of Sudan or any person blocked pursuant to this part or otherwise, including payments authorized with respect to trade transactions described in paragraph (a) of this section, must be made into a blocked account in the United States; and

(ii) No payment may be made from a blocked account unless authorized by a specific license issued by the Office of Foreign Assets Controls.

(2) Specific licenses may be issued by the Office of Foreign Asset Controls on a case-by-case basis to permit a U.S.

bank to debit a blocked account of the Government of Sudan for funds held as collateral under an irrevocable letter of credit issued or confirmed by it, or a letter of credit reimbursement confirmed by it, for goods, services or technology exported, or goods or technology reexported, prior to 12:01 a.m. EST, December 4, 1997, directly or indirectly to Sudan, or to third countries for an entity operated from Sudan, or for the benefit of the Government of Sudan. The application for a license must:

(i) Present evidence satisfactory to the Office of Foreign Asset Controls that the exportation or reexportation occurred prior to 12:01 a.m. EST, December 4, 1997; and

(ii) Include an explanation of the facts and circumstances surrounding the entry and execution of the export or reexport transaction, including the names and addresses of all Sudanese participants in the transaction and all Sudanese persons having an ownership interest in the beneficiary of the letter of credit.

(c) *Blocked Government of Sudan accounts.* Nothing in this section permits debits to a blocked account of the Government of Sudan absent the issuance of a specific license by Office of Foreign Asset Controls authorizing such a debit. The operation of an account of the Government of Sudan in a financial institution does not constitute a trade transaction for purposes of this section.

(d) *Existence of contract.* The existence of a contract will be determined with reference to the principles contained in Article 2 of the Uniform Commercial Code.

(e) *Reporting requirement.* Although a specific license from Office of Foreign Asset Controls is not required for any transaction authorized in paragraph (a) of this section, any U.S. person engaging in a transaction described in paragraph (a) of this section is required to report such transaction immediately to the Office of Foreign Asset Controls and provide a description of the underlying trade contract. Such reports should be directed to the Office of Foreign Assets Control, Attn: Compliance Programs Division/Sudan Contracts, 1500 Pennsylvania Avenue, NW.,

Annex-2nd Floor, Washington, DC 20220. Such reports may be made by facsimile transmission to 202/622-1657.

(f) *Licensing and reporting provisions.* For provisions relating to applications to the Office of Foreign Asset Controls for specific licenses and reporting requirements, see §§ 501.606 and 501.808 of this chapter.

§ 538.507 Reexports by non-U.S. persons.

(a) *Goods and technology subject to export license application requirements under other United States regulations.* The reexportation to Sudan or the Government of Sudan by a non-U.S. person of any goods or technology exported from the United States, the exportation of which to Sudan is subject to export or reexport license application requirements, is authorized under this section provided that the goods or technology:

(1) Have been incorporated into another product outside the United States and constitute 10 percent or less by value of that product exported from a third country; or

(2) Have been substantially transformed outside the United States.

NOTE TO PARAGRAPH (a) OF § 538.507: Notwithstanding the authorization set forth in paragraph (a), a non-U.S. person's reexportation of goods, technology or software of U.S. origin that are subject to the Export Administration Regulations (15 CFR parts 730 through 774) may require specific authorization from the Department of Commerce, Bureau of Industry and Security.

(b) *Goods and technology not subject to export license application requirements under other United States regulations.* The reexportation to Sudan or the Government of Sudan by a non-U.S. person of any goods or technology of U.S. origin, the exportation of which to Sudan is not subject to any export license application requirements under any other United States regulations, is authorized under this section.

NOTE TO PARAGRAPH (b) OF § 538.507: However, the reexportation by non-U.S. persons of U.S.-origin goods, technology or software classified as EAR99 under the Export Administration Regulations (15 CFR parts 730